

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

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LINDA BEEMAN,

No. 2:21-cv-01774 WBS DB

Plaintiff,

v.

ORDER RE: MOTION TO DISMISS  
COMPLAINT

JOHN CRUZ, individually and as employee of the AMADOR COUNTY SHERIFF'S DEPARTMENT; AMADOR COUNTY SHERIFF'S DEPARTMENT; COUNTY OF AMADOR; and DOES 1 through 50, inclusive,

Defendants.

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Plaintiff Linda Beeman brought this action against Amador County, the Amador County Sheriff's Department (the "Department"), Detective John Cruz, and unnamed Doe defendants 1-25 (collectively "defendants") seeking damages under 42 U.S.C. § 1983 for alleged violations of rights protected by the Fourth, Fifth, and Fourteenth Amendments to the U.S. Constitution. (See Compl. (Docket No. 1).) Plaintiff challenges damage defendants

1 allegedly caused to her property during their execution of two  
2 warrants at her home and challenges her arrest, which she  
3 contends was pursuant to an improperly obtained warrant. (See  
4 id. at ¶¶ 11-17.) Defendants now move to dismiss plaintiff's  
5 complaint in its entirety. (See Mot. (Docket No. 4-1).)

6 I. Factual and Procedural Background

7 Plaintiff is the mother of Jerry Adams, whom the  
8 Department and Cruz have suspected murdered Savannah Burger since  
9 October of 2020. (Compl. at ¶ 9.) On November 5, 2020, Cruz and  
10 the Department executed a search warrant at plaintiff's  
11 residence, causing \$711.17 worth of damage to the premises and  
12 plaintiff's possessions. (Id. at ¶ 11.) On or about January 20,  
13 2021, the Department returned to plaintiff's residence to serve  
14 an arrest warrant on Jerry Adams, who was not present, and in the  
15 process caused an additional \$3,650.88 worth of damage. (Id. at  
16 ¶ 13.) On February 3, 2021, plaintiff submitted a claim to the  
17 County for the damage caused on both occasions, which the County  
18 rejected via letter on March 31, 2021. (Id. at ¶ 14.)

19 Plaintiff alleges that on March 12, 2021, defendants  
20 caused the Amador County District Attorney's Office to file a  
21 criminal complaint against her. (Id. at ¶ 15.) That complaint  
22 alleged she was guilty as an accessory after the fact for aiding  
23 Jerry Adams by wiring him \$200 on January 21, 2021, the day  
24 before he was criminally charged. (Id. at ¶¶ 15, 20.) Plaintiff  
25 alleges that the resulting warrant for her arrest, which Cruz  
26 executed, was based on Cruz's false statements that plaintiff was  
27 aware Jerry Adams was a fugitive when she wired him the money and  
28 that she did so to help him avoid arrest. (Id. at ¶¶ 16, 20.)

1 Plaintiff was arrested on March 16, 2021 and was  
2 released on March 29, 2021. (Id. at ¶ 17.) During that time,  
3 she was terminated from her employment at the California  
4 Department of Corrections and Rehabilitation, though she was  
5 eventually reinstated without pay for the interim period. (Id.  
6 at ¶¶ 18-19.)

7 Plaintiff alleges that at the time she wired the money,  
8 "there were no known allegations about her son being a fugitive  
9 or a defendant in a murder case." (Id. at ¶ 20.) Rather, she  
10 alleges, she wired it "for the purpose of him returning to  
11 Jackson, California to answer to the allegations which were being  
12 made against him," which Anthony Adams<sup>1</sup> told Cruz on March 3,  
13 2021. (Id. at ¶¶ 17, 20) She alleges that Cruz knowingly  
14 misrepresented this detail when seeking to have her charged as an  
15 accessory and that Cruz had never been told she wired Jerry Adams  
16 the money to facilitate his escape. (Id. at ¶ 24.) She further  
17 alleges that at a preliminary hearing in her criminal case, Cruz  
18 admitted there was a conflict between his initial report and  
19 Anthony Adams's statement, and that the District Attorney  
20 dismissed the charge against her. (Id. at ¶¶ 22, 25.) She  
21 alleges that this series of events shows that Cruz "intend[ed] to  
22 ruin Plaintiff's life by misstating the facts and getting her  
23 arrested and terminated from her employment." (Id. at ¶ 26.)

24 II. Discussion

25 Federal Rule of Civil Procedure 12(b) (6) allows for  
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27 <sup>1</sup> Although the complaint does not identify Anthony Adams,  
28 defendants' motion states that he is Jerry Adams's nephew. (Mot.  
at 9.)

1 dismissal when the plaintiff's complaint fails to state a claim  
2 upon which relief can be granted. See Fed. R. Civ. P. 12(b) (6).  
3 "A Rule 12(b) (6) motion tests the legal sufficiency of a claim."  
4 Navarro v. Block, 250 F.3d 729, 732 (9th Cir. 2001). The inquiry  
5 before the court is whether, accepting the allegations in the  
6 complaint as true and drawing all reasonable inferences in the  
7 plaintiff's favor, the complaint has alleged "sufficient facts  
8 . . . to support a cognizable legal theory," id., and thereby  
9 stated "a claim to relief that is plausible on its face," Bell  
10 Atl. Corp. v. Twombly, 550 U.S. 544, 570 (2007).

11 In deciding such a motion, all material allegations of  
12 the complaint are accepted as true, as well as all reasonable  
13 inferences to be drawn from them. Id. Courts are not, however,  
14 "required to accept as true allegations that are merely  
15 conclusory, unwarranted deductions of fact, or unreasonable  
16 inferences." Sprewell v. Golden State Warriors, 266 F.3d 979,  
17 988 (9th Cir. 2001); see Bell Atl. Corp., 550 U.S. at 555.  
18 Accordingly, "for a complaint to survive a motion to dismiss, the  
19 non-conclusory 'factual content,' and reasonable inferences from  
20 that content, must be plausibly suggestive of a claim entitling  
21 the plaintiff to relief." Moss v. U.S. Secret Serv., 572 F.3d  
22 962, 969 (9th Cir. 2009) (quoting Ashcroft v. Iqbal, 556 U.S.  
23 662, 678 (2009)). Although legal conclusions "can provide the  
24 framework of a complaint, they must be supported by factual  
25 allegations." Iqbal, 556 U.S. at 679.

26 A. Defendant Department

27 In their motion, defendants seek dismissal of the  
28 Department as a defendant in this case, arguing that the

1 Department and Amador County are functionally indistinguishable  
2 for purposes of this action and are therefore redundant. (See  
3 Mot. at 11-12.) Plaintiff concedes this point and agrees that  
4 the Department should be dismissed. (See Opp. at 8.) The court  
5 will therefore grant defendants' motion as to the County.

6       B. Municipal Liability

7           That Amador County is named as a defendant indicates,  
8 and plaintiff's opposition confirms, that plaintiff intends to  
9 pursue a claim for municipal liability under Monell. (See  
10 Compl.; Opp. at 9-11); Monell v. Dep't of Soc. Servs. of City of  
11 N.Y., 436 U.S. 658, 690-91 (1978). However, in her opposition,  
12 plaintiff "acknowledges that the Complaint does not address the  
13 County of Amador's liability clearly" and seeks leave to amend to  
14 allege facts showing that the County fails to enforce its own  
15 policies. (See Opp. at 9-10.) She also states that "the  
16 complaint fails to address how the facts fit a Monell failure to  
17 supervise [claim]" and seeks leave to amend to allege same. (See  
18 id. at 9-11.) The court agrees that, on the minimal facts  
19 included in the complaint, these claims are not adequately  
20 alleged.<sup>2</sup> Accordingly, the court will grant defendants' motion  
21 to dismiss the claims against Amador County.

22       C. Fourth Amendment Claims

23           1. Unreasonable Execution of Warrant

24           The complaint alleges that, on two occasions,

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25           2       The court notes, however, that § 1983 claims for  
26 failure to supervise are distinct from claims for municipal  
27 liability, and thus a Monell claim will not lie for failure to  
28 supervise. See Dougherty v. City of Covina, 654 F.3d 892, 900-01  
(9th Cir. 2011); Robertson v. Ferry Cnty., 697 F. App'x 500, 501  
(9th Cir. 2017).

1 defendants damaged or destroyed plaintiff's property while  
2 executing warrants at her home. (Compl. at ¶¶ 11, 13.) The  
3 Fourth Amendment protects individuals' right to be free of  
4 "unnecessarily destructive behavior, beyond that necessary to  
5 execute a warrant effectively." San Jose Charter of Hells Angels  
6 Motorcycle Club v. City of San Jose, 402 F.3d 962, 971 (9th Cir.  
7 2005) (quoting Liston v. Cnty. of Riverside, 120 F.3d 965, 979  
8 (9th Cir. 1997)). "When officers obtain a warrant to search an  
9 individual's home, they also receive certain limited rights to  
10 occupy and control the property; however, the Fourth Amendment  
11 binds the officers such that the right to search a home  
12 concomitantly obliges the officers to do so in a reasonable  
13 manner." Id. (citation omitted).

14 In evaluating whether a warrant was executed in a  
15 reasonable manner, courts "consider both the purpose disclosed in  
16 the application for a warrant's issuance and the manner of its  
17 execution." Id. (quoting United States v. Rettig, 589 F.2d 418,  
18 423 (9th Cir. 1978)). This is because "[t]he standard of  
19 reasonableness embodied in the Fourth Amendment demands that the  
20 showing of justification match the degree of intrusion." Id.  
21 (quoting Berger v. New York, 388 U.S. 41, 70 (1967) (Stewart, J.,  
22 concurring)) (alteration in original); see also id. at 974  
23 (significant property destruction during warrant execution  
24 indicated manner of execution was unreasonable).

25 Although the complaint and documents attached thereto  
26 suggest that the damage to plaintiff's home and property during  
27 the warrant executions was significant, and an attached letter  
28 provides considerable detail about the extent of that damage,

1 (see Compl. at ¶¶ 11, 13, Exs. 1-2), the complaint fails to  
2 allege which officers are responsible for such damage. This  
3 omission is notable because plaintiff's opposition, on the other  
4 hand, does in fact identify the officers alleged to have been  
5 present during the warrant executions. (See Opp. at 9 n.1.)

6 Because an element of § 1983 liability is that the  
7 defendant personally caused the alleged deprivation of the  
8 plaintiff's constitutional rights, see Jones v. Williams, 297  
9 F.3d 930, 934 (9th Cir. 2002); Johnson v. Duffy, 588 F.2d 740,  
10 743 (9th Cir. 1978), plaintiff must allege same to state a claim  
11 under § 1983, see Hydrick v. Hunter, 669 F.3d 937, 942 (9th Cir.  
12 2012). Here, however, the complaint merely states that Cruz and  
13 the Department executed the first warrant, that the Department  
14 executed the second warrant, and that plaintiff suffered  
15 particular damage to her home and property as a result of each  
16 execution. (Compl. at ¶¶ 11, 13.) It does not allege how, if at  
17 all, Cruz or other individual officers were involved in the  
18 property damage. It therefore fails to state a claim for  
19 unreasonable execution under § 1983.

20       2. False Arrest / Malicious Prosecution

21 Where a plaintiff is arrested pursuant to a  
22 prosecutor's independent decision to charge the plaintiff, that  
23 decision is ordinarily considered "a superseding or intervening  
24 cause of [the] constitutional tort plaintiff's injury, precluding  
25 suit against the officials who made an arrest or procured a  
26 prosecution." See Beck v. City of Upland, 527 F.3d 853, 862 (9th  
27 Cir. 2008). In the Ninth Circuit, "there is a rebuttable  
28 presumption that a prosecutor exercises independent judgment

1 regarding the existence of probable cause in filing a complaint.”  
2 Smiddy v. Varney, 803 F.2d 1469, 1471 (9th Cir. 1986) (citing  
3 Smiddy v. Varney, 665 F.2d 261, 266-67 (9th Cir. 1981), overruled  
4 on other grounds, Beck, 527 F.3d at 865).

5 Circumstances in which this presumption will be  
6 considered rebutted “include situations in which the prosecutor  
7 was pressured by police or was given false information; the  
8 police ‘act[ed] maliciously or with reckless disregard for the  
9 rights of an arrested person’; the prosecutor ‘relied on the  
10 police investigation and arrest when he filed the complaint  
11 instead of making an independent judgment on the existence of  
12 probable cause for the arrest’; or the officers ‘otherwise  
13 engaged in wrongful or bad faith conduct that was actively  
14 instrumental in causing the initiation of legal proceedings.’”  
15 Beck, 527 F.3d at 862-63 (quoting Smiddy, 803 F.2d at 266-67;  
16 Awabdy v. City of Adelanto, 368 F.3d 1062, 1067 (9th Cir. 2004)).

17 The complaint contains no non-conclusory allegations to  
18 plausibly support an inference of any such circumstances here.  
19 Plaintiff alleges that, before Cruz sought charges against her,  
20 her grandnephew told Cruz her intentions in wiring the money were  
21 innocent, and she insinuates that this statement was not relayed  
22 to the prosecutor. (See Compl. at ¶¶ 15-17.) However, both  
23 sides acknowledge that at the preliminary hearing the magistrate  
24 found probable cause notwithstanding Cruz’s testimony about  
25 Anthony Adams’s March 3, 2021 statement regarding plaintiff’s  
26 intentions.

27 Accordingly, the complaint fails to state a claim for  
28 false arrest or malicious prosecution.

1           D. Fifth Amendment Claims

2           With respect to alleged Fifth Amendment violations,  
3 plaintiff's opposition simply asserts that the Fifth Amendment is  
4 implicated and quotes its Due Process and Takings Clauses before  
5 offering the vague statement that "[h]ere, the Defendants have  
6 engaged in a pattern of behavior to deny Plaintiff of her civil  
7 rights without justification." (Opp. at 11-12.) It offers no  
8 explanation of how the facts alleged in the complaint demonstrate  
9 a violation of either clause, nor citation to any authority  
10 suggesting how a Fifth Amendment violation might be alleged.

11           The complaint fails to state a claim for violation of  
12 plaintiff's rights under the Fifth Amendment.

13           E. Fourteenth Amendment Claims

14           In challenging defendants' motion as to plaintiff's  
15 asserted Fourteenth Amendment claim, the opposition states only  
16 that "[t]he pattern of conduct contrary to the Sheriff's Manuel  
17 [sic] Policy of due regard and respect for private property,  
18 along with misstating facts and false arrest brings all the  
19 Plaintiff's civil rights into play." (Id. at 12.) Plaintiff  
20 offers no additional argument or authority to suggest how the  
21 facts alleged might amount to a Fourteenth Amendment violation.

22           The Fourteenth Amendment's Due Process Clause "contains  
23 a substantive component that bars certain arbitrary, wrongful  
24 government actions 'regardless of the fairness of the procedures  
25 used to implement them.'" See Zinermon v. Burch, 494 U.S. 113,  
26 125-26 (1990) (quoting Daniels v. Williams, 474 U.S. 327, 331  
27 (1986)). Plaintiff's complaint indicates that she believes the  
28 damage to her property and her arrest were wrongful or arbitrary.

1           However, “[w]here government behavior is governed by a  
2 specific constitutional amendment, claims under section  
3 1983 alleging unlawful government action must be evaluated under  
4 that specific constitutional provision, rather than under the  
5 rubric of ‘substantive due process.’” Sanchez v. City of Fresno,  
6 1:12-cv-428 LJO SKO, 2014 WL 204058, at \*5 (E.D. Cal. May 16,  
7 2014) (citing Albright v. Oliver, 510 U.S. 266, 273 (1994);  
8 Graham v. Conner, 490 U.S. 386, 395 (1989); Picray v. Sealock,  
9 138 F.3d 767, 770 (9th Cir. 1998)). If “the more particular  
10 Amendment (in this case the Fourth) ‘provides an explicit textual  
11 source of constitutional protection against a particular sort of  
12 government behavior,’” then courts “evaluate that same conduct  
13 . . . under the Fourth Amendment, rather than the Fourteenth  
14 Amendment.” Id. (quoting Albright, 510 U.S. at 273). Because  
15 plaintiff’s relevant claims amount to claims of “unreasonable  
16 searches and seizures,” U.S. Const. amend. IV, they are properly  
17 assessed under the Fourth Amendment, not the Fourteenth.

18           Accordingly, the complaint fails to state a claim for  
19 violation of plaintiff’s rights under the Fourteenth Amendment.

20           IT IS THEREFORE ORDERED that defendants’ motion to  
21 dismiss plaintiff’s complaint be, and the same hereby is,  
22 GRANTED.

23           Plaintiff has twenty days from the date of this Order  
24 to file an amended complaint, if she can do so consistent with  
25 this Order.

26 Dated: January 25, 2022

  
WILLIAM B. SHUBB  
UNITED STATES DISTRICT JUDGE

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